

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF SOUTH CAROLINA**

| | | |
|-----------------------------------|---|--------------------|
| IN RE: AQUEOUS FILM-FORMING FOAMS |) | Master Docket No.: |
| PRODUCTS LIABILITY LITIGATION |) | 2:18-mn-2873-RMG |

| | | |
|---|---|-------------------|
| CITY OF CAMDEN, et al., |) | Civil Action No.: |
| |) | 2:23-cv-03230-RMG |
| <i>Plaintiffs,</i> |) | |
| |) | |
| -vs- |) | |
| |) | |
| E.I. DUPONT DE NEMOURS AND COMPANY (n/k/a |) | |
| EIDP, Inc.), et al. |) | |
| |) | |
| <i>Defendants.</i> |) | |

MOTION FOR SANCTIONS

Plaintiffs, City of Camden, City of Brockton, City of Sioux Falls, California Water Service Company, City of Del Ray Beach, Coraopolis Water & Sewer Authority, Township of Verona, Dutchess County Water & Wastewater Authority and Dalton Farms Water System, City of South Shore, City of Freeport, Martinsburg Municipal Authority, Seaman Cottages, Village of Bridgeport, City of Benwood, Niagara County, City of Pineville, and City of Iuka (collectively, “Plaintiffs”), by and through Class Counsel, move for sanctions against Met’s counsel Jeff Kray of Marten Law; Marcia Scully, General Counsel for Met; and Jill C. Teraoka, Deputy General Counsel for Met. The grounds for this motion are as follows:

1. On June 30, 2023, Plaintiffs entered into a Class Action Settlement Agreement (“DuPont PWS Settlement,” or the “Settlement Agreement”) with The Chemours Company, The Chemours Company FC, LLC, DuPont de Nemours, Inc., Corteva, Inc., and E.I. DuPont de Nemours and Company (n/k/a EIDP, Inc.) (collectively, “Settling Defendants” or “DuPont”) (ECF No. 3393-2).

2. On November 10, 2023, Met filed an Objection to the Settlement (ECF No. 3955).
3. On November 21, 2023, Class Counsel filed their Motion for Final Approval of Class Settlement, for Final Certification of the Settlement Class, and in Response to Objections (ECF No. 4080) (“Final Approval Motion”). In such Motion, Class Counsel addressed Met’s Objection.
4. On November 30, 2023, Met submitted a Request for Exclusion seeking to exclude itself – or “opt out” – of the DuPont PWS Settlement, thereby withdrawing its Objection. *See* DuPont PWS Settlement Agreement (ECF No. 3393-2), § 9.7.4; *see also* Order Granting Preliminary Approval of the Settlement Agreement (ECF No. 3603, as amended by ECF Nos. 3521, 3678, 4178 and 4420) (confirming that opting out has the effect of withdrawing an Objection).
5. On December 14, 2024, the Court held a Final Fairness Hearing on the DuPont PWS Settlement, at which Jeff Kray, outside counsel for Met appeared and argued.
6. On February 8, 2024, the Court issued its Order and Opinion granting Class Counsel’s Final Approval Motion and overruling all Objections (ECF No. 4471).
7. On February 26, 2024, the Court entered a Final Order and Judgment (ECF No. 4543), confirming Final Approval of the Settlement Agreement and final certification, for settlement purposes only, of the Settlement Class; dismissing Claims in the Litigation asserted by Settlement Class Members against Released Persons; and permanently enjoining any Settlement Class Member from asserting or pursuing any Released Claim against any Released Person in any forum.
8. Following the issuance of both the Court’s Order and Opinion, and of its Final Order and Judgment, on Saturday, March 9, 2024, Met’s in-house counsel reached out to Class Counsel by email demanding amendments to the Settlement Agreement, advising that they would move to intervene for the purpose of appealing the Court’s approval of the Settlement, and requesting a response by Sunday evening.

9. Despite Class Counsel’s communications in response, Met filed its Notice of Appeal (ECF No. 4653) on March 11, 2024, as well as its Motion to Intervene for the Limited Purposes of Filing an Appeal (“Motion to Intervene”) (ECF No. 4660).

10. Class Counsel move for sanctions against Met’s counsel Jeff Kray, Marcia Scully, and Jill C. Teraoka (“Met Counsel”), and for revocation of the pro hac vice admissions of Mr. Kray and Ms. Teraoka for their repeatedly abusive, unreasonable and vexatious behavior before this Court in this matter, including as follows:

- Met Counsel violated Local Rule 7.02 by improperly demanding a meet-and-confer under threat of appeal and engaged in communications in bad faith, including by unilaterally imposing an 18-hour response deadline on a weekend with full knowledge that their request would require coordination of multiple stakeholders and their schedules;
- Met Counsel violated the duty of candor by misrepresenting their client’s position, as well as by knowingly providing false information to Settlement Class Members in an attempt to drum up opposition to the Settlement; and
- Met Counsel have demonstrated a history of abuse of the judicial process by repeatedly advancing duplicative and/or baseless arguments, libeling Class Counsel, polluting and obstructing the administration of justice, and needlessly burdening the parties and the Court with frivolous filings.

11. Class Counsel respectfully request that the Court grant this Motion.

Dated: March 15, 2024

Respectfully Submitted,

s/ Paul J. Napoli
Paul J. Napoli
Napoli Shkolnik
1302 Avenida Ponce de León
San Juan, Puerto Rico 00907
Tel: (833) 271-4502
Fax: (646) 843-7603
pnapoli@nspirlaw.com

s/ Michael A. London
Michael A. London
Douglas and London P.C.
59 Maiden Lane, 6th Floor
New York, NY 10038
212-566-7500
212-566-7501 (fax)
mlondon@douglasandlondon.com

s/ Scott Summy
Scott Summy
Baron & Budd, P.C.
3102 Oak Lawn Avenue, Suite 1100
Dallas, TX 75219
214-521-3605
ssummy@baronbudd.com

s/ Elizabeth A. Fegan
Elizabeth A. Fegan
Fegan Scott LLC
150 S. Wacker Dr., 24th Floor
Chicago, IL 60606
312-741-1019
beth@feganscott.com

s/ Joseph F. Rice
Joseph F. Rice
Motley Rice
28 Bridgeside Blvd.
Mount Pleasant, SC 29464
jrice@motleyrice.com

Class Counsel

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the foregoing was electronically filed with this Court's CM/ECF on this 15th day of March, 2024 and was thus served electronically upon counsel of record.

s/ Andrew Croner

Andrew Croner

Napoli Shkolnik

360 Lexington Avenue, 11th Fl.

New York, New York 10017

(212) 397-1000

acroner@napolilaw.com